

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF ILLINOIS

DONALD C. RIDLEY,

Petitioner,

No. 3:17-cv-00190-DRH-2

UNITED STATES OF AMERICA,

Respondent.

MEMORANDUM and ORDER

HERNDON, District Judge:

Before the Court is petitioner Donald Ridley's ("petitioner") Motion for Leave to Appeal in *Forma Pauperis*. [Doc. 36]. On April 9, 2018, the Court dismissed petitioner's motion to vacate, set aside, or correct sentence pursuant to 28 U.S.C. § 2255. [Doc. 29]. The Clerk of the Court entered judgment reflecting the same on April 10, 2018. [Doc. 30]. Petitioner filed a notice of appeal of both the Order and the judgment on June 6, 2018 (doc. 31), along with his motion for leave to appeal *in forma pauperis*. Based on the following, the Court **DENIES** the motion to proceed *in forma pauperis* on appeal. [Doc. 36].

Rule 24 of the Federal Rules of Appellate Procedure provides that a party to an action in federal district court who desires to appeal IFP must first file a motion in the district court requesting leave to appeal without payment of fees and costs. *See Fed. R. App. P. 24(a)(1).* The motion must be supported by an affidavit that: (1) shows the party's inability to pay or to give security for fees and

costs; (2) claims an entitlement to redress; and (3) states the issues that the party intends to present on appeal. *See id.* An appeal may not be taken IFP if the district court certifies in writing that the appeal is not taken in good faith. *See* 28 U.S.C. § 1915(a)(3); *Coppedge v. United States*, 369 U.S. 438, 444 (1962). An appeal is in good faith if it raises legal points that are reasonably arguable on their merits. *See Neitzke v. Williams*, 490 U.S. 319, 325 (1989) (citing *Anders v. California*, 386 U.S. 738, 744 (1967)). To appeal in bad faith, on the other hand, means to appeal “on the basis of a frivolous claim, which is to say a claim that no reasonable person could suppose have any merit.” *Lee v. Clinton*, 209 F.3d 1025, 1026 (7th Cir. 2000).

The Court will not address the question of whether petitioner is indigent because petitioner’s appeal is not taken in good faith. Petitioner’s Notice of Appeal states only that petitioner appeals “the final judgment.” [Doc. 31]. Likewise, petitioner’s motion to appeal IFP fails to identify any specific issues on appeal. [Doc. 36]. Petitioner has not articulated any entitlement to relief or identified the issue that he intends to present on appeal. Thus his motion fails to meet the criteria set out in Fed. R. App. P. 24(a)(1). As petitioner has failed to set out a reasonably arguable legal position, the Court presumes that the appeal is taken in bad faith.

Accordingly, the Court **DENIES** petitioner’s request for leave to proceed IFP on appeal (doc. 36) and certifies that his appeal is not taken in good faith. Petitioner Ridley shall tender the appellate filing and docketing fee of \$505.00 to

the Clerk of the Court in this District within **THIRTY** (30) days of the date of the entry of this Order or he may reapply with the Seventh Circuit Court of Appeals for leave to proceed *in forma pauperis* on appeal.

IT IS SO ORDERED.

 
Judge Herndon
2018.06.12
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United States District Judge